

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: CAROLINE BROWN,
Debtor.

No. 11-03894 CW

ORDER REGARDING
BANKRUPTCY APPEAL

SUMI LIM,
Plaintiff/Appellant,
v.

CAROLINE BROWN,
Defendant/Appellee.

On October 5, 2011, the Court granted Appellant Sumi Lim fourteen additional days in which to file her opening brief, which was due on October 19, 2011. On October 18, 2011, Appellant filed a document entitled, "Bankruptcy Court Prohibits the Continuation of This Case," in which she indicates that Debtor/Appellee Caroline Brown received a discharge in her bankruptcy case and, as a result, Appellant cannot continue this appeal. Appellant indicates that she will cease to litigate this case.

The Court knows of no rule that prevents an appeal of an adversary proceeding after the debtor has received a discharge in the underlying bankruptcy case. However, if the appellant does not seek and obtain a stay pending appeal, the appeal may be moot. See Fed. Rules Bankr. Proc. 8005. Furthermore, the Court notes that Federal Rule of Bankruptcy Procedure 8006 requires that the record

1 on appeal include the judgment, order or decree appealed from, and
2 any opinion, findings of fact and conclusions of law of the court.
3 Furthermore, Bankruptcy Local Rule 8007-1 requires that the record
4 on appeal include a transcript of the hearing of the bankruptcy
5 court at which the court made findings of fact and conclusions of
6 law. The record on appeal designated by Appellant includes the
7 bankruptcy court's August 11, 2011 Order Re: Plaintiff's Motion to
8 Correct Clerical Error in June 30, 2011 Order. The record does not
9 contain the opinion or findings of fact and conclusions of law of
10 the bankruptcy court or the transcript of the relevant hearing.

11 In light of the above, if Appellant wishes to proceed with her
12 appeal, within seven days from the date of this order, she must
13 file with the Court a declaration to that effect. If she fails to
14 file a declaration within this time period, her appeal will be
15 dismissed for failure to prosecute. If she timely notifies the
16 Court that she wishes to proceed with her appeal, she must perfect
17 the record and file her opening brief within twenty-one days from
18 the date of this order.

19
20 IT IS SO ORDERED.

21
22 Dated: 10/24/2011



CLAUDIA WILKEN
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RE:CAROLINE BROWN,

Case Number: CV11-03894 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

RE:CAROLINE BROWN et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 24, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

USBC Manager-San Francisco
United States Bankruptcy Court
235 Pine Street
P.O. Box 7341
San Francisco, CA 94120-7341

Sumi Lim
1815 Spruce St. #203
Berkeley, CA 94709

Thomas E. Carlson
U.S. Bankruptcy Court
235 Pine Street
P.O. Box 7341
San Francisco, CA 94120-7341

Dated: October 24, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk